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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/598,110    06/21/00    PULLARO

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QM12/0223

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EXAMINER
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ST LOUIS MO 63102

HUNTER, A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED:  
02/23/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/598,110

Applicant(s)

PULLARO, TERRY

Examiner

Alvin A Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: Sebastiano Passaniti

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the post office address of each inventor. A post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The post office address should include the ZIP Code designation.

If the residence is the same as the post office address, the applicant can indicate it by entering "SAME" in the post office address box. Do not leave the box blank.

### ***Drawings***

2. The drawings are objected to because Figures 1 and 3-8 contain reference numbers that are not clear. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Claim Objections***

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 14 has been renumbered 17.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheatley (USPN 5083790).

Wheatley discloses a golf swing training stick comprising a handgrip (10) and a weight (14). The handgrip (10) has a first end and a second end and is shaped like a golf club grip (See Figures 1, 4, and 8). Figure 1 shows that the balance point (B), or center of mass, of the device is 17 inches from the outer end of the handgrip (10) obviously making the balance point (B) less than 18 inches from the first end of the handgrip (10).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790).

Wheatley discloses the above but does not disclose the length of the handgrip (10), but by looking at Figure 1, one can assume that the handgrip (10) is less than 10

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inches and having an approximate length of 8 ½ inches (The handgrip (10) is shown as being approximately half the length to the balancing point (B)). If the handgrip (10) is 8 ½ inches then the balancing point (B), which is not on the handgrip (10), from the first end of the handgrip (10) is 8 ½ inches, which is less than 13 inches (See Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle less than 10 inches and a center of mass less than 13 in order to accommodate users of different sizes.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790) in view of Loredo (USPN 6083116).

Wheatley discloses the above but lacks the weight having a diameter and length less than 4 inches. Loredo discloses a weight device (9) with a diameter of 2 inches and a length of 3 to 4 inches (See Column 3, lines 45 through 47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a diameter and length of a weight of less than 4 inches in order to give the weight an light material appearance.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790) in view of Wendt (USPN 4602788).

Wheatley discloses the above but lacks the device weighing more than the hand-held implement used in the sport. Wendt discloses a weighted golf swing exercise club that weighs more than the regulation golf club (See Column 2, lines 59 through 65).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the device weighing more than the device used in the sport in order to strengthen the muscles of the user.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790) in view of Benson (USPN 5807183).

Wheatley discloses the above but lack the handle having external threads and the weight having internal threads. Benson discloses a stretchable member (44) having external thread and a ball (42), or weight, having internal threads (See Figure 6). The ball (42) and the stretchable member (44) can easily be modified in order for the ball (42) to have external threads and the stretchable member (44) to have internal threads, and the stretchable member (44) can also easily be substituted by putting a handle in its place.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a handle with external threads and a weight with internal threads in order to provide a means of attaching the handle to the weight.

9. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790) in view of Beach (USPN 4898384).

Wheatley discloses the above but lacks the handle shaped like the grip of a bat and hockey stick. Beach discloses a batting aid system with the handle (20) shaped like the grip of a bat (See Figure 1). The handle shaped like a hockey stick disclosed by the applicant is a mere substitution to add versatility to the device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a handle shaped like the grip of a bat and hockey stick in order to give the device versatility.

10. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley (USPN 5083790) in view of Marquez (USPN 5755633).

Wheatley discloses the above but lacks the handle shaped like the grip of a tennis racket. Marquez discloses a tennis stroke training and exercise device that has a handle (2) shaped like the grip of a tennis racket (See Figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a handle shape like the grip of a tennis racket in order to give the device versatility.

#### ***Claim Rejections - 35 USC § 102***

11. Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Wheatley (USPN 5083790).

Wheatley discloses a method of grasping the device and swinging the device (See Figures 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, and 9I). Refer to Figure 1, to see the relationship between the balancing point (B), or center of mass, and the handgrip (10).

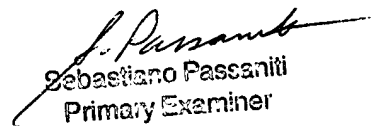
#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:30PM Eastern Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeanette Chapman, can be reached on (703) 308-1310. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Sebastiano Passaniti  
Primary Examiner